SIKKIM

GOVERNMENT GAZETTE

EXTRAORDINARY

PUBLISHED BY AUTHORITY

No. 117 Gangtok, Wednesday July 3, 1985.

GOVERNMENT OF SIKKIM
LAW DEPARTMENT
GANGTOK

Notification No. 11/LD/85 Dated the 29th June, 1985.

The following Act of the Sikkim Legislative Assembly having received the assent of the Governor on the 28th day of June, 1985, is hereby published for general information:—

THE SIKKIM ALLOTMENT OF HOUSE SITES AND CONSTRUCTION OF BUILDING (REGULATION AND CONTROL) ACT, 1985

(ACT NO. 11 OF 1985)

AN

ACT

to provide for the allotment of house sites, regulation of construction, alteration and repair of buildings in Sikkim and for matters connected therewith.

Whereas house sites have been allotted without consulting the Sikkim Public Works Department and other concerned Departments;

Whereas such allotment of sites have resulted in encroachment of septic, water supply tanks, land within compound of Government quarters, within the notified green belt and affecting and likely to cause land slide during monsoon; and

Whereas it is expedient to bring about an equitable and proper distribution of house sites and promote planned, organised and systematic growth of towns and bazars in the State of Sikkim and matters connected therewith.

Be it enacted by the Legislative Assembly of Sikkim in the Thirty-sixth Year of the Republic of India as follows:-

CHAPER I

Short title, extent and commencement.

1. (1) This Act may be called the Sikkim Allotment of House Sites and Construction of Building (Regulation and Control) Act, 1985.

(2) It shall extend to the whole of Sikkim.

(3) It shall come into force at once.

Definitions.

2. In this Act, unless the context otherwise requires:-

(a) "allotment" means allotment of sites for construction of building for the purpose of residence, commerce, residential-cum-commercial or any other trade or industry;

(b) "building" includes a house, out-house, stable, privy, urinal, shed, hut, wall (other than a boundary wall, not exceeding ten feet in height) and any other such structure, whether of masonary, bricks, wood, mud, metal or any other material whatsoever, and includes any temporary shed erected on ceremonial or festive occasions;

(c) "family" means father, mother and their minor children and includes major children living jointly with the parents.

(d) "Government" means the Government of Sikkim in the Local Self Government and Housing Department and includes such other officers of the said Department and of any other Department as may be authorised by the Government for carrying out the purposes of this Act;

(e) "notified area" means any area notified for purposes of Chapters II and III of this Act;

(f) "notified green belt" means the green belt area notified by the Government vide notfication No. 6/LSGHD dated the 10th April, 1982 and includes such other area, which may be so declared by the Government, by notification, from time to time;

(g) "notification" means a notification published in the Official Gazette;

(h) "person" means any individual and includes any member of the family, any society or association of persons, whether incorporated or not, and all legal and juristic persons;

(i) "prescribed" means prescribed by rules made under this Act;

(j) "salami" means the amount payable by a person for allotment of a site under the provisions of this Act but does not include ground rent or other rates, taxes or fees payable under this Act or any other law in force in this State.

CHAPTER II

Declaration of Notified area and preparation of plans.

3. (1) The Government shall, from time to time, by notification, declare any area as a notified area for the purposes of this Act.

(2) The Government shall, within six months but not later than one year from the date of commencement of this Act, prepare a plan indicating the area-

(i) for residential purposes;

(ii) for commercial purposes;

(iii) for residential-cum-commercial purposes;

(iv) for industrial purposes;

(v) for public and semi-public open places, parks, play grounds and Community Hall.

(3) The Government shall indicate and specify sites for residential, commercial and industrial purposes.

(4) The Government shall publish within fifteen days from the preparation of such plan with details as mentioned in sub-section (2), by notification, and in such other manner as may be specified in this behalf.

Allotment of house sites.

4. (1) The Government may allot sites on application made by any person in such form and in such manner as may be prescribed.

(2) An allottee shall pay such salami as may be notified by the Government, from time to time .

(3) The Government shall, by notification, fix different rates of salami for purposes of allotment on the basis of the area, user and location.

Cancellation of allotment.

5. (1) All allotments in which the registration whether complete or not and those falling under the notified green belt shall stand cancelled.

Explanation:-

Allotments for purpose of sub-section (1) mean allotments of house sites on which construction is not completed.

(2) The salami paid by the allottee shall be refunded within one month from the date of commencement of this Act.

(3) Subject to section 6 such of the allottees whose sites have been cancelled under sub-section (1) shall be given preference for allotment of sites in notified area as notified under sub-section (3) of section 3 if an application is made to that effect.

(4) The sites allotted under this Act may be cancelled on grounds of fraud, misrepresentation of facts or bonafide mistake:

Provided that no order of cancellation shall be made unless the person concerned has been given an opportunity of making representation.

CHAPTER - III

Restriction on allotment of site,

6. The Government shall not allot more than one site to one family in the state.

Permission for construction of building.

7. (1) No construction shall be undertaken in any notified area without obtaining the prior permission of the Government.

(2) The Government shall make regulations regulating the construction of building in any notified area.

(3) While granting permission for construction of buildings, the Government shall give due consideration to the cultural and traditional values of the people of Sikkim.

(4) All permissions for the construction of the buildings which are obtained prior to the commencement of this Act shall stand cancelled.

Demolition of building.

8. The Government may demolish any construction or building which have been commenced, continued or completed in contravention of the provision of the Act or the regulations made thereunder.

Removal of structures which are in ruins or likely to fall.

9. (1) If at any time it appears to the State Government that any structure in any notified area (including under this expression any building, wall or other structure and anything affixed to or projecting from any building, wall or other structure) is found unsafe for human habitation or in any way dangerous to any person occupying, resorting to or passing by such structure or any other structures or place in the neighbourhood thereof, the State Government may, by a written notice of not less than seven days, require the owner or occupier—

(a) to demolish or to repair such structure in such manner as may be specified in the notice, or

(b) to repair, protect or enclose such structure in such manner as may be specified in the notice.

(2) Where it appears to the State Government that immediate action is necessary for the purpose of preventing imminent danger to any person or property, it shall be the duty of the State Government itself to take such immediate action; and in such case it shall not be necessary for the State Government to give notice, if it appears to it that the object of taking immediate action shall be defeated by the delay incurred in giving notice.

(3) Where any owner or occupier fails to comply with the notice served upon him, the State Government may demolish or remove such structure or fixture under sub-section (1) or sub-section (2) and recover the expenses of such demolition or removal from the owner or occupier, as the case may be.

Power of State Government to regularise on payment of fees.

10. If, upon considering the facts and circumstances of a case, the Government is satisfied that any building already constructed before the commencement of this Act in contravention of the existing laws, rules, notifications, orders or directions and does not fall under the notified green belt, it may pass order for regularisation of such construction on payment of such fees as may be fixed by the Government by notification in this behalf.

CHAPTER - IV

Penalties.

11. Without prejudice to any other actions to be taken under the provisions of this Act, any person who contravenes the provisions of this Act or rules, regulations, notifications, orders or directions issued thereunder, shall be punishable with a simple imprisonment not less than six months or with a fine not less than rupees five hundred or with both.

Offences to be cognizable.

12. All offences under this Act or rules or regulations made thereunder shall be cognizable and shall be triable by a Judicial Magistrate of First Class.

Filing of complaint.

13. All complaints shall be filed by an Officer not below the rank of an Under Secretary to the Government after obtaining the approval of the Government.

Limitation.

14. All complaints shall be filed within one year from the date of an offence.

Action taken in good faith.

15. No action, civil or criminal shall lie against any officer of the Government for anything which is in good faith done or intended to be done in pursuance of this Act or rules or regulations made thereunder.

Power to make rules.

16. The State Government may, by notification, in the Official Gazette, make rules to carry out the purposes of this Act.

Power to make regulations.

17. The State Government may, by notification, in the Official Gazette, make regulations regulating constructions of buildings and all other connected matters.

Present Rules and Bye-laws to continue.

18. All bye-laws, rules, regulations and notifications in force concerning constructions of buildings shall continue to be in force as though they are regulations made under this Act till they are altered, amended or varide.

B. R. PRADHAN,
Secretary to the Govt. of Sikkim,
Law Department.
F. No. 16 (205) LD/85.

PRINTED AT THE SIKKIM GOVERNMENT PRESS, GANGTOK.

SIKKIM

GOVERNMENT GAZETTE

EXTRAORDINARY
PUBLISHED BY AUTHORITY

Gangtok, Saturday, 1st July, 2000 No. 228

GOVERNMENT OF SIKKIM
LAW DEPARTMENT
GANGTOK

No: 16/LD/2000 Dated: 30. 6. 2000

NOTIFICATION

The following Act of the Sikkim Legislative Assembly having received the assent of the Governor on 28th day of June, 2000 is hereby published for general information:-

THE SIKKIM ALLOTMENT OF HOUSE SITES AND CONSTRUCTION OF BUILDING (REGULATION AND CONTROL) AMENDMENT ACT, 2000
(ACT NO. 16 OF 2000)
AN
ACT

further to amend the Sikkim Allotment of House Sites and Construction of Building (Regulation and Control) Act, 1985.

Be it enacted by the Legislature of Sikkim in the Fifty-first Year of the Republic of India as follows:-

Short title, extent and commencement. 1. (1) This Act may be called the Sikkim Allotment of House Sites and Construction of Building (Regulation and Control) Amendment Act, 2000.

(2) It extends to the whole of Sikkim.

(3) It shall come into force at once.

Amendment of section 2. 2. In the Sikkim Allotment of House Sites and Construction of Building (Regulation and Control) Act, 1985 (hereinafter referred to as " the principal Act), in section 2,-

(a) in clause (c), after the word "means" and before the word "father" the words "husband, wife," shall be inserted;

(b) in clause (d), for the words "Local Self Government and Housing Department", the words " Urban Development and Housing Department" shall be substituted;

(c) for clause (e), the following shall be substituted, namely:-
"notified area" means any area whether Government or private notified from time to time for the purpose of Chapter II and III of this Act;

(d) in clause (j), after the words " ground rent" and before the words "or other rates" the following words shall be inserted, namely:-
" or cost of the land";

(e) after clause (j), the following clauses shall be added, namely:-
"(K) "lease deed" means the lease deed executed between the allottee and the Government with regard to the allotted site for a specific period

of time";

"(l)" "Site" means the area allotted for a building or house within which shall be integrated all the amenities like septic tanks, water tanks, soakpits, staircase etc. including the area to be covered by the topmost/ widest chajja/hood.

Amendment of section 4.

3. In the principal Act, in section 4,-

(i) for sub-section (1), the following sub-section shall be substituted, namely:-

"(1) (a) The Government may allot a site to a person on application made by him in such form and in such manner as may be prescribed subject to fulfilment of the criteria laid down in the regualtions where a site is actually available but the submission of an applicaiton alone does not confer any legal right to the applicant for allotment of a site.

(b) No Government servant who has not rendered regular service for a minimum period of 12 (twelve) years shall be eligible for allotment of a site.

(c) Persons already having a dwelling house in a private holding or otherwise in a particular town or bazar shall not be eligible for allotment of site within any Urban area"

(ii) for sub-section (2), the following sub-section shall be substituted, namely:-

"(2) An allottee shall pay such site salami and cost of land as may be notified by the Government from time to time";

(iii) after sub-section (3), the following new sub-section shall be inserted, namely:-

"(4) After the allotment of the site, the allottee shall get the lease deed registered in the office of the Registrar of the concerned district."

Insertion of new section 4A.

4. In the principal Act, after section 4, the followig section shall be inserted, namely:-

"4A Allotment of site acquired for public purposes:-

Where a site acquired for a public purpose is proposed to be allotted for a private purpose, such an allottee shall deposit such amount of charges as may be ascertained by the Government towards the cost of the land and such an area also shall be held as lease hold."

Amendment of section 5.

5. In the principal Act, in section 5, in sub-section (1), after the word "registration" and before the word "whether", the words "of lease deed" shall be inserted.

Amendment of section 7.

6. In the principal Act, in section 7,-

(i) in sub-section (1), after the words, "notified area" and before the words "without obtaining", the words "whether Government or private holdings" shall be inserted;

(ii) in sub-section (2), after the words "notified area" the words "whether Government or private" shall be added;

(iii) in sub-section (3), after the words "Government shall", the following shall be substituted, namely:- "ensure that the roofing of a house and its all round elevation shall be in traditional style".

Amendment of section 11.

7. In the principal Act, in section 11, for the words "five hundred", the words "five thousand" shall be substituted.

By Order of the Governor.

T.D.Rinzing.
Secretary to the Govt. of Sikkim.
Law Department.
F.No. 16(82)LD/2000

SIKKIM

GOVERNMENT GAZETTE

EXTRAORDINARY
PUBLISHED BY AUTHORITY

Gangtok, Monday, 12th November, 2001 No. 410

GOVERNMENT OF SIKKIM
LAW DEPARTMENT
GANGTOK

No. 8 /LD/2001 Dated: 12.11.2001.

NOTIFICATION

The following Act of the Sikkim Legislative Assembly having received the assent of the Governor on 5th day of November, 2001 is hereby published for general information :-

THE SIKKIM ALLOTMENT OF HOUSE SITES AND CONSTRUCTION OF BUILDINGS (REGULATION AND CONTROL) AMENDMENT ACT, 2001

ACT NO.8 OF 2001

AN

ACT

further to amend the Sikkim Allotment of House Sites and Construction of Building (Regulation and Control) Act, 1985.

Be it enacted by the Legislature of Sikkim in the Fifty - Second Year of the Republic of India as follows:-

Short title, extent and commencement.

1. (1) This Act may be called the Sikkim Allotment of House Sites and Construction of Building (Regulation and Control) Amendment Act,2001.

(2) It extends to the whole of Sikkim.

(3) It shall come into force at once.

Insertion of new section

2. In the Sikkim Allotment of House Sites and Construction of Building (Regulation and Control) Act, 1985 (hereinafter referred to as the said Act), in section 7, after sub-section (1), the following sub-section shall be inserted, namely:-

"(1-A). No construction of any building or structure of any height shall be undertaken without provision for earthquake resistance system.

The State Government shall make necessary regulations prescribing the required structural designs on this behalf."

Amendment of section 11

3. In the said Act, in section 11, for the words "five hundred", the words "three thousand" shall be substituted.

Repeal and Saving.

4. (1) The Sikkim Allotment of House Sites and Construction of Building (Regulation and Control) Amendment Ordinance, 2001 (Ordinance No. 7 of 2001) is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the Ordinance so repealed, shall be deemed to have been done or taken under the corresponding provisions of this Act.

By Order.

T. D. Rinzing,
Secretary to the Govt. of Sikkim,
Law Department.
F.No. 16(82) LD/2001

Printed at Sikkim Government Press, Gangtok.

SIKKIM

GOVERNMENT GAZETTE

EXTRAORDINARY
PUBLISHED BY AUTHORITY

Gangtok, Friday, 21st March, 2003 No. 72

GOVERNMENT OF SIKKIM
LAW DEPARTMENT
GANGTOK

No. 1/LD/2003. Dated the 21st March, 2003.

NOTIFICATION

The following Act of the Sikkim Legislative Assembly having received the assent of the Governor on 7th day of March, 2003 is hereby published for general information :-

THE SIKKIM ALLOTMENT OF HOUSE SITES AND CONSTRUCTION OF BUILDING (REGULATION AND CONTROL) AMENDMENT ACT, 2003
(ACT NO. 1 OF 2003)
AN
ACT

further to amend the Sikkim Allotment of House Sites and Construction of Building (Regulation and Control) Act, 1985.

Be it enacted by the Legislature of Sikkim in the Fifty-fourth Year of the Republic of India as follows:-

Short title and commencement.

1. (1) This Act may be called the Sikkim Allotment of House Sites and Construction of Building (Regulation and Control) Amendment Act, 2003.

Amendment of section 6.

2. In the Sikkim Allotment of House Sites and Construction of Building (Regulation and Control) Act, 1985, (hereinafter referred to as the principal Act), in section 6 of the principal Act shall be renumbered as sub-section (1) of that section and after that sub-section (1) as so renumbered, the following sub-section shall be inserted, namely:-

"(2) The Government shall not allot the Government Quarters/Structure and the land appurtenant thereto to any individual or organisation".

Amendment of section 7.

3. In the principal Act, in section 7, after sub-section (4), the following sub-section shall be inserted, namely:-

"(5) No construction shall be undertaken in any area which is geologically unstable without fulfilling the requirements specified in the guidelines issued by the Bureau of Indian Standards for construction of buildings in hill areas".

Amendment of section 9.

4. In the principal Act, in section 9, in sub-section (1), after the words " the State Government may", and before the words "by a written notice," the following words shall be inserted namely:-

"declare the same to be unsafe and evict the people from the unsafe places or buildings and may".

By Order of the Governor.

T. D. Rinzing,
Secretary to the Govt. of Sikkim,
Law Department.
F. No. 16 (82) LD/2003.

Printed at Sikkim Government Press, Gangtok.

SIKKIM

GOVERNMENT GAZETTE

EXTRAORDINARY
PUBLISHED BY AUTHORITY

Gangtok Monday 18th August, 2003 No. 263

GOVERNMENT OF SIKKIM
LAW DEPARTMENT
GANGTOK

No. 10/LD/2003. Dated 13.8.2003.

NOTIFICATION

The following Act of the Sikkim Legislative Assembly having received the assent of the Governor on 4th day of August, 2003 is hereby published for general information:-

THE SIKKIM ALLOTMENT OF HOUSE SITES AND CONSTRUCTION OF BUILDING (REGULATION AND CONTROL) AMENDMENT ACT, 2003
(ACT NO. 10 OF 2003)
AN
ACT

Further to amend the Sikkim Allotment of House Sites and Construction of Building (Regulation and Control) Act, 1985.

BE it enacted by the Legislature of Sikkim in the Fifty-fourth Year of the Republic of India as follows:-

Short title, Extent and commencement.

1. (1) This Bill may be called the Sikkim Allotment of House Sites and Construction of Building (Regulation and Control) Amendment Act, 2003.

(2) It extends to the whole of Sikkim.

(3) It shall come into force at once.

Amendment of Section 4.

2. In the Sikkim Allotment of House Sites and of Construction of Building (Regulation and Control) Act, 1985, in sub-section (1) of Section 4,-

(i) clause (b) shall be omitted;

(ii) clause (c) shall be renumbered as clause (b).

By Order.

T.D. RINZING
Secretary to the Govt. of Sikkim,
Law Department.

F. No. 16 (82)LD/2003.

SIKKIM

GOVERNMENT GAZETTE

EXTRAORDINARY
PUBLISHED BY AUTHORITY

Gangtok Tuesday 1st May, 2007 No. 164

GOVERNMENT OF SIKKIM
LAW DEPARTMENT
GANGTOK

No. 6/LD/P/07 Date: 26.04.2007

NOTIFICATION

The following Act passed by the Sikkim Legislative Assembly and having received the assent of the Governor on 16th day of April, 2007 is hereby published for general information:-

THE SIKKIM ALLOTMENT OF HOUSE SITES AND CONSTRUCTION OF BUILDING (REGULATION AND CONTROL) AMENDMENT ACT, 2007

(ACT No. 6 of 2007)

AN

ACT

further to amend the Sikkim Allotment of House Sites and Construction of Building (Regulation and Control) Act, 1985.

Be it enacted by the Legislature of Sikkim in the Fifty-eighth Year of the Republic of India.

Short title, Extended and Commencement

1. (1) This Act may be called the Sikkim Allotment of House Sites and Construction of BuildingPlan to be consistent with the recommendations of the Committee for district planning. (Regulation and Control) Amendment Act, 2007.

(2) It extends to the whole of Sikkim.

(3) It shall come into force at once.

Amendment of Section 4.

2. In the Sikkim Allotment of House Sites and Construction of Building (Regulation and Control) Act, 1985, in sub-section (1) of Section 4, after the clause (b), the following clause shall be inserted, namely:-

"(c) The Government shall reserve 3% reservation to the disabled person for allotment of house sites prospectively".

By Order

R. K. Purkayastha (SSJS)
LR-cum-Secretary
Law Department .

S.G.P.G.- 164/ Gazette/ 150 cps./ 3.5.07

THE SUBSEQUENT AMENDMENTS TO THE SIKKIM ALLOTMENT OF HOUSE SITES AND CONSTRUCTION OF BUILDING (REGULATION AND CONTROLS) ACT, 1985 (ACT NO. 11 OF 1985) AMENDED AND UPDATED UPTO MAY, 2007

SIKKIM

GOVERNMENT GAZETTE

EXTRAORDINARY
PUBLISHED BY AUTHORITY

Gangtok | Monday 19th September, 2022 | No. 375

GOVERNMENT OF SIKKIM
LAW & PARLIAMENTARY AFFAIRS DEPARTMENT
GANGTOK

No. 11(656)L&PAD/2021/16 Dated: 17.09.2022

NOTIFICATION

The following Act passed by the Sikkim Legislative Assembly and having received assent of the Governor on 25th day of August, 2022 is hereby published for general information: -

THE SIKKIM ALLOTMENT OF HOUSE SITES AND CONSTRUCTION OF BUILDING (REGULATION AND CONTROL) (AMENDMENT) ACT, 2022

(Act no. 24 of 2022)

AN

ACT

further to amend the Sikkim Allotment of House Sites and Construction of Building (Regulation and Control) Act, 1985.

Be it enacted by the Legislature of Sikkim in the Seventy-third Year of the Republic of India as follows:-

Short title, extent and commencement

1. (1) This Act may be called the Sikkim Allotment of House Sites and Construction of Building (Regulation and Control) (Amendment) Act, 2022.

(2) They shall extend to the whole of Sikkim.

(3) They shall come into force at once.

Amendment of Section 11.

2. In the Sikkim Allotment of House Sites and Construction of Building (Regulation and Control) Act, 1985 (hereinafter referred to as the "Principal Act") for Section 11, the following shall be substituted, namely:-

"11. Without prejudice to any other actions to be taken under the provisions of this Act, any person who contravenes the provisions of this Act or rules, regulations, notifications, orders or directions issued thereunder, shall be punishable with such fine as may be notified from time to time."

Amendment of Section 12.

3. In the Principal Act, for Section 12, the following shall be substituted, namely:-

"12. All offences under this Act or rules or regulations made thereunder shall be cognizable and shall be triable by the District Magistrate."

Suraj Chettri (SSJS),
L.R.-cum-Secretary,
Law & Parliamentary Affairs Department.